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To: Ms. Tina Urbaitis, Appeals Coordinator **Date:** May 23, 2019
Joshua Dingman
Company: The New York State Education Department **Pages:** 4 *(including cover sheet)*
Office of Counsel
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Fax #: (518) 474-4188 **From:** Philip H. Kalban, Esq.

To: Ms. Lindsie B. Alterkun, Esq.
Chesney, Nicholas & Brower, LLP
485 Underhill Boulevard, Suite 308
Syosset, New York 11791

Fax #: (516) 378-7633

Re: Matter of [REDACTED]
against Shulamith School for Girls

We are disappointed that you did not give us the opportunity to respond to Ms. Alterkun's letter. Our response is submitted herewith, and we respectfully ask that you reconsider and reverse your response in your May 23, 2019 letter.

Philip H. Kalban

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May 23, 2019

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The New York State Education Department
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New York State Education Building
89 Washington Avenue
Albany, New York 12234
Attn: Ms. Tina Urbaitis, Appeals Coordinator

Re: [REDACTED] v. **Shulamith School for Girls, Appeal No. 21062**

Dear Commissioner:

We represent Shulamith School for Girls, the respondent on an appeal that has been fully submitted to the Commissioner and is awaiting decision.

We are in receipt of a letter dated May 22, 2019, from Lindsie B. Alterkun, Esq. of the law firm Chesney, Nicholas & Brower, LLP, attorneys for the appellants/petitioners [REDACTED] and [REDACTED].

As Ms. Alterkun's letter concedes, the unvaccinated [REDACTED] child is NOT being prohibited from attending classes at Shulamith School for Girls.

The School is in full compliance with the Commissioner's January 15, 2019 order, despite the fact that the order conflicts with the School's religious belief as set forth in its Answer to the Petition and Memorandum in Opposition submitted on the appeal.

Plainly, Ms. Alterkun's request on behalf of the [REDACTED] is not covered by either Public Health Law § 2164 or by the stay order, which directed the School "to admit [REDACTED] and [REDACTED] to Shulamith School for Girls, pending an ultimate determination of the appeal" The children have been admitted and continue to attend the School.

Ms. Tina Urbaitis
May 23, 2019
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The School's refusal to allow a student to attend a non-classroom, non-educational program at 7 in the evening does not involve that student's admission to the school and, as set forth above, is not covered by Section 2164 of the Public Health Law, the Education Law, any regulation or the January 15 stay.

There is considerable concern that the unvaccinated child dangerously exposes pregnant teachers and other students during the current measles epidemic which is rampant in Brooklyn and Queens, bordering the School's community. The School is acting in the best interests of those who will be attending this evening program and fulfilling its obligations to protect those who will be attending from any possible exposure by excluding the unvaccinated child.

Respectfully, evening activities conducted at a religious school are not within the general powers and duties of the Commissioner. As the letter from Shulamith School for Girls to the [REDACTED] clearly states: "This is not a classroom or educational event and attendance has no impact on her grades." (See enclosure).

Because the exclusion of the unvaccinated child from a program conducted in the evening for parents and families does not transgress any statute, regulation or order, and because the request from Ms. Alterkun seeks an action beyond the Commissioner's jurisdiction, and for the reasons set forth in the Memorandum in Opposition and Answer, Shulamith School for Girls respectfully requests that the Commissioner reject the request from Ms. Alterkun in her May 22 letter.

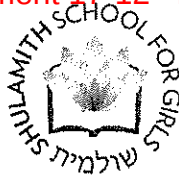
Should you require any additional briefing on this issue, we will be happy to supply same.

Respectfully,


Philip H. Kalban

Enc.

cc: By fax (516) 378-7633 and mail:
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May 16, 2019

Mr. and Mrs. [REDACTED]

Dear Mr. and Mrs. [REDACTED]

This letter is to advise you that your unvaccinated daughter, [REDACTED] is not allowed to attend our Night of the Arts event on Tuesday, May 28th, nor any other after-school activities, especially those as this one, that will be attended by grandparents, great grandparents, young children and pregnant women.

Please note that your children will not be permitted to enter the school for this event and should not attempt to do so. This is not a classroom or educational event and attendance has no impact on her grades.

Sincerely,

A handwritten signature in black ink, appearing to read "M Fishman".

Malka Fishman
Executive Director

CC: Philip H. Kalban
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